

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by BellSouth Telecommunications, Inc. for waiver of Rules 25-4.107, 25-4.108, and 25-4.113, F.A.C., which require provision of basic telecommunications service to certain locations and persons.

DOCKET NO. 000028-TL  
ORDER NO. PSC-02-0325-PCO-TL  
ISSUED: March 13, 2002

ORDER GRANTING IN PART AND DENYING IN PART MOTION  
FOR EXTENSION OF TIME TO FILE BRIEF

On January 10, 2000, BellSouth Telecommunications, Inc. (BellSouth) filed a petition seeking a waiver of Rules 25-4.107, 25-4.108 and 25-4.113, Florida Administrative Code, pursuant to Section 120.542, Florida Statutes. By Order No. PSC-00-0902-PAA-TL, issued May 5, 2000, BellSouth's petition was granted. On May 30, 2000, Mr. Anthony Parks filed a protest of Order No. PSC-00-0902-PAA-TL and requested a formal hearing pursuant to Rule 25-22.029, Florida Administrative Code. On February 4, 2002, an administrative hearing was held in this matter. By Order No. PSC-01-1771-PCO-TL (Order On BellSouth's Motion and Fifth Order Modifying Order Establishing Procedure), issued August 30, 2001, the brief filing date was established as March 4, 2002.

On March 4, 2002, Anthony Parks filed his Motion for Extension of Time to File Brief. In his Motion, Mr. Parks requests a 30-day extension of time. In support of his Motion, Mr. Parks states that he needs more time to obtain counsel. He asserts that he had contacted several attorneys, but only one attorney was willing to handle the matter and had any knowledge of this Commission's regulations. Further, he contends that his preliminary research indicates that the Commission does not have the authority to enforce BellSouth's requested waiver against him. Mr. Parks asserts that, therefore, this matter involves the Florida Legislature and that his attorney needs to meet with the Legislature to finalize this matter. Mr. Parks also asserts that since this is an issue of first impression, he requires additional time to properly research the issues and to present the issues. Mr. Parks indicates that he attempted to contact the attorney for BellSouth but did not reach him, therefore, he was unable to obtain BellSouth's position.

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On March 6, 2002, BellSouth filed its Response to Mr. Parks' Motion. In its Response, BellSouth asserts that it has yet to receive a copy of Mr. Parks' Motion. BellSouth states that allowing Mr. Parks to file his brief beyond the March 4, 2002, deadline gives Mr. Parks an unfair advantage because it allows him to review BellSouth's brief prior to filing his own brief. BellSouth contends that the Presiding Officer at the close of the hearing informed both parties of the due date, instructed both parties to file their briefs on the due date, and informed both parties that the failure to file a brief would result in a waiver of all issues. BellSouth argues that clearly Mr. Parks had advance notice of when the post-hearing briefs were due. BellSouth states that it left a message with Mr. Parks informing him of its objection to the extension of time.

Rule 28-106.204(5), Florida Administrative Code, states that "Motions for extension of time shall be filed prior to the expiration of the deadline sought to be extended and shall state good cause for the request." Mr. Parks filed his Motion before the expiration of the deadline sought to be extended, which was March 4, 2002.

However, the parties were informed at the close of the hearing as to the due date for filing briefs and the consequences of failing to timely file the brief. Thus far, Mr. Parks has failed to file any of the substantive pleadings required by Order No. PSC-01-0722-PHO-TL (Prehearing Order), issued March 23, 2001, including prehearing statement and testimony.

Nevertheless, Mr. Parks is a lay person without legal representation in this matter. Rule 28-106.106, Florida Administrative Code, entitled Who May Appear; Criteria for Qualified Representative, states, in part, that:

Any party who appears in any agency proceeding has the right, at his or her own expense, to be represented by counsel or by a qualified representative.

Although Rule 28-106.106, Florida Administrative Code, permits a party to obtain representation by counsel or by a qualified representative, Mr. Parks has chosen to represent himself in the proceedings in this docket including the hearing. Therefore, in

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the interest of justice, Mr. Parks shall have until March 18, 2002, to submit a brief. However, if Mr. Parks fails to timely file his brief, he will waive all issues in accordance with Order No. PSC-01-0722-PHO-TL, which states that "If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding."

For the foregoing reasons, Mr. Parks' shall be granted a two-week extension of time until March 18, 2002, to file his brief, rather than the 30-day extension requested.

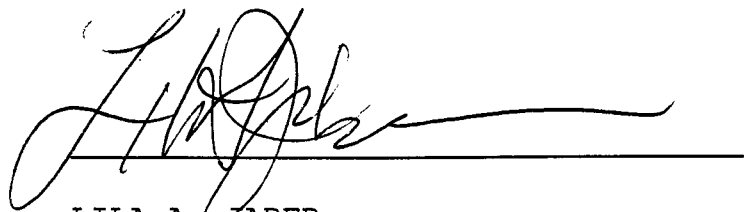
Based on the foregoing, it is

ORDERED by Chairman Lila A. Jaber, as Prehearing Officer, that Mr. Anthony Parks' Motion for Extension of Time to File Brief is granted, in part, and denied, in part. It is further

ORDERED that Mr. Parks shall be granted a two-week extension until March 18, 2002, to submit a brief. It is further

ORDERED that if Mr. Parks fails to timely file a brief, he shall waive all issues.

By ORDER of Chairman Lila A. Jaber, as Prehearing Officer, this 13th Day of March, 2002.



LILA A. JABER  
Chairman and Prehearing Officer

( S E A L )

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.